

AMENDED IN ASSEMBLY AUGUST 24, 2006

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY JUNE 20, 2006

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE APRIL 18, 2006

AMENDED IN SENATE MARCH 30, 2006

SENATE BILL

No. 1205

Introduced by Senator Escutia

(Coauthors: Assembly Members Goldberg, Koretz, Laird, Lieu,
Oropeza, and Pavley)

January 25, 2006

An act to amend Sections 39674, 42400, 42400.1, 42400.2, 42400.3, 42400.3.5, 42400.3.7, 42400.6, 42401, 42402, 42402.1, 42402.2, 42402.3, and 42402.4 of, and to add Sections 39604.3, 42400.9, 42402.4.5, and 42402.6 to, the Health and Safety Code, relating to air pollution.

LEGISLATIVE COUNSEL'S DIGEST

SB 1205, as amended, Escutia. Air pollution: Children's Breathing Rights Act: penalties.

(1) Existing law vests local and regional authorities, defined as the governing body of any city, county, or air pollution control district or air quality management district, with the primary responsibility for control of air pollution from all sources other than vehicular sources. Existing law establishes maximum criminal and civil penalties for any

person, as defined, for violations of air pollution laws from nonvehicular sources.

This bill would enact the Children's Breathing Rights Act, which would increase the maximum penalties for specified violations of air pollution laws, as provided. The bill would punish specified violations of air pollution laws that result in substantial risk of actual injury, as specified. The bill would punish making certain ~~fake~~ *false* statements, representations, or certifications ~~with intent to deceive~~, as specified. The bill would require the state board to post on its Internet Web site information on air quality violations, as specified. The bill would require the districts to report to the state board this information and jointly develop with the state board a format for presenting this information, as specified.

Because this bill would impose new duties on local air districts, this bill would create a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known, and may be cited, as
2 the Children's Breathing Rights Act.

3 SEC. 2. (a) The Legislature finds and declares all of the
4 following:

5 (1) Breathing clean and healthy air is a right of all
6 Californians, especially our children, whose health suffers
7 disproportionately when our air is polluted.

8 (2) Reduced lung growth and function, new asthma cases,
9 respiratory complications for asthmatics, and increased school
10 absences from respiratory illnesses are just some of the
11 consequences our children face if we fail to protect that right.

1 (3) The most recent available state and federal data reveal that
2 more than 245 million pounds of industrial air pollution were
3 emitted near California schools in 1995. Statewide, more than 2.8
4 million children were enrolled in schools located near reported
5 air emissions of carcinogens, reproductive toxins, heavy metals,
6 nitrogen oxides, sulfur dioxide, or particulate matter.

7 (4) If we improve the statutes ~~penalizing governing~~ violations
8 of our air quality laws and ensure that *adequate* penalties are ~~not~~
9 ~~so low as to be a minor inconvenience to a serious air polluter~~
10 ~~available to deter even the most serious air pollution violations,~~
11 our children's right to clean and healthy air can be better
12 protected, as can the right to environmental justice provided in
13 Section 65040.12 of the Government Code, that is, the fair
14 treatment of people of all races, cultures, and income with
15 respect to the enforcement of environmental laws, regulations,
16 and policies. If we improve the enforcement of our air quality
17 laws, we will avoid future economic and social costs of air
18 pollution.

19 (b) It is the intent of the Legislature to improve compliance
20 with air quality laws, to increase penalties for serious violators of
21 air pollution laws and to use enhanced penalties to improve air
22 pollution enforcement activities, *and* to create a statewide
23 database that would provide transparency regarding violations,
24 including serious violations, ~~to help fund local children's health~~
25 ~~initiatives, and to help fund asthma-asthma care management and~~
26 ~~asthma prevention activities, and other programs or activities~~
27 ~~addressing health problems related to air pollution in schools and~~
28 ~~local communities.~~

29 SEC. 3. Section 39604.3 is added to the Health and Safety
30 Code, to read:

31 39604.3. (a) (1) Notwithstanding Section 39604, the state
32 board shall post on its Internet Web site, by January 1, 2008, and
33 by January 1 of each year thereafter, the same information on air
34 quality violations that the districts provide to the United States
35 Environmental Protection Agency. The state board shall also
36 provide a link on its Internet Web site to the Internet Web sites of
37 the districts. To protect confidentiality, the state board may
38 require a password for certain areas of their Internet Web site.

39 (2) Each district shall submit the information described in
40 paragraph (1) to the state board, and the state board and the

1 districts shall jointly develop a format for presenting this
2 information. The format shall ensure that the data is presented in
3 an open and transparent manner that is, to the greatest extent
4 possible, readily accessible to, and understandable by, the public
5 and ~~that is~~ compatible with enforcement data provided by other
6 state environmental agencies.

7 (b) (1) Commencing January 1, 2008, every judgment entered
8 in an action brought by a district and every final settlement
9 agreement entered into by a district to enforce any provision of
10 law that is administered by the district shall be posted on the
11 district's Internet Web site, if the judgment or settlement
12 agreement is in the public record.

13 (2) Paragraph (1) shall apply only to districts with a population
14 greater than one million. A district with a population of less than
15 one million that maintains an Internet Web site shall either
16 comply with paragraph (1) or post a statement on its Internet
17 Web site informing the public how to request information in the
18 public record regarding judgments and settlement agreements.

19 (3) For the purposes of this subdivision, a judgment or
20 settlement agreement is final when the time for judicial review
21 has expired, or when all means of judicial review have been
22 exhausted.

23 (4) A judgment or settlement agreement posted pursuant to
24 this subdivision shall be posted for not less than one year.

25 SEC. 4. Section 39674 of the Health and Safety Code is
26 amended to read:

27 39674. (a) Except as otherwise provided in subdivision (b),
28 any person who violates any rule or regulation, emission
29 limitation, or permit condition adopted pursuant to Section 39659
30 or Article 4 (commencing with Section 39665) or which is
31 implemented and enforced as authorized by subdivision (b) of
32 Section 39658 is strictly liable for a civil penalty not to exceed
33 ten thousand dollars (\$10,000) for each day during any portion of
34 which the violation occurs.

35 (b) (1) Any person who violates any rule or regulation,
36 emission limitation, permit condition, order fee requirement,
37 filing requirement, duty to allow or carry out inspection or
38 monitoring activities, or duty to allow entry for which delegation
39 or approval of implementation and enforcement authority has
40 been obtained pursuant to subdivision (l) of Section 112 of the

Clean Air Act (42 U.S.C. Section 7412(l)) or the regulations adopted pursuant thereto, adopted pursuant to Section 39659 or Article 4 (commencing with Section 39665) or which is implemented and enforced as authorized by subdivision (b) of Section 39658 is strictly liable for a civil penalty not to exceed fifty thousand dollars (\$50,000) for each day during any portion of which the violation occurs.

(2) Where a civil penalty in excess of five thousand dollars (\$5,000) for each day of violation is sought, there is no liability under subdivision (a) or paragraph (1) for an amount above five thousand dollars (\$5,000) for each day during any portion of which a violation occurs, if the person accused of the violation alleges by affirmative defense and establishes that the violation is caused by an act which was not the result of intentional or negligent conduct. In a district in which a Title V permit program has been fully approved, this paragraph shall not apply to a violation of federally enforceable requirements that occur at a Title V source.

(3) Paragraph (2) shall not apply to a violation of a toxic air contaminant rule, regulation, permit, order, fee requirement, filing requirement, duty to allow or carry out inspection or monitoring activities, or duty to allow entry for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subdivision (l) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412(l)), or the regulations adopted pursuant thereto.

SEC. 5. Section 42400 of the Health and Safety Code is amended to read:

42400. (a) Except as otherwise provided in Section 42400.1, 42400.2, 42400.3, 42400.3.5, or 42400.4, any person who violates this part, or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, adopted pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, is guilty of a misdemeanor and is subject to a fine of not more than ten thousand dollars (\$10,000) or imprisonment in the county jail for not more than six months, or both.

(b) If a violation under subdivision (a) with regard to the failure to operate a vapor recovery system on a gasoline cargo tank is directly caused by the actions of an employee under the

1 supervision of, or of any independent contractor working for, any
2 person subject to this part, the employee or independent
3 contractor, as the case may be, causing the violation is guilty of a
4 misdemeanor and is punishable as provided in subdivision (a).
5 That liability shall not extend to the person employing the
6 employee or retaining the independent contractor, unless that
7 person is separately guilty of an action that violates this part.

8 (c) Any person who owns or operates any source of air
9 contaminants in violation of Section 41700 that causes a
10 substantial risk of actual injury, as defined in subdivision (e), to
11 another person, whether the risk of injury is immediate or in the
12 future, is guilty of a misdemeanor and is subject to a fine of not
13 more than twenty-five thousand dollars (\$25,000) or
14 imprisonment in the county jail for not more than nine months or
15 both.

16 (d) Any person who owns or operates any source of air
17 contaminants in violation of Section 41700 that causes actual
18 injury, as defined in subdivision (e), to another person, is guilty
19 of a misdemeanor and is subject to a fine of not more than fifty
20 thousand dollars (\$50,000) or imprisonment in the county jail for
21 not more than nine months, or both.

22 (e) As used in this section, “actual injury” means any physical
23 injury that, in the opinion of a licensed physician and surgeon,
24 requires medical treatment involving more than a physical
25 examination.

26 (f) Each day during any portion of which a violation of
27 subdivision (a), (c), or (d) occurs is a separate offense.

28 SEC. 6. Section 42400.1 of the Health and Safety Code is
29 amended to read:

30 42400.1. (a) Any person who negligently emits an air
31 contaminant in violation of any provision of this part or any rule,
32 regulation, permit, or order of the state board or of a district
33 pertaining to emission regulations or limitations is guilty of a
34 misdemeanor and is punishable by a fine of not more than
35 twenty-five thousand dollars (\$25,000), or imprisonment in a
36 county jail for not more than nine months, or both.

37 (b) Any person who negligently emits an air contaminant in
38 violation of Section 41700 that causes a substantial risk of actual
39 injury, as defined in subdivision (e) of Section 42400, to another
40 person, whether the risk of injury is immediate or in the future, is

1 guilty of a misdemeanor and is punishable by a fine of not more
2 than fifty thousand dollars (\$50,000) or imprisonment in the
3 county jail for not more than nine months, or both.

4 (c) Any person who negligently emits an air contaminant in
5 violation of Section 41700 that causes actual injury, as defined in
6 subdivision (e) of Section 42400, to another person, is guilty of a
7 misdemeanor and is punishable by a fine of not more than
8 seventy-five thousand dollars (\$75,000) or imprisonment in the
9 county jail for not more than nine months, or both.

10 (d) Any person who negligently emits an air contaminant in
11 violation of Section 41700 that causes great bodily injury, as
12 defined by Section 12022.7 of the Penal Code, to, or death of,
13 any person, is guilty of a misdemeanor and is punishable by a
14 fine of not more than one hundred thousand dollars (\$100,000),
15 or imprisonment in a county jail for not more than one year, or
16 both.

17 (e) Each day during any portion of which a violation occurs is
18 a separate offense.

19 SEC. 7. Section 42400.2 of the Health and Safety Code is
20 amended to read:

21 42400.2. (a) Any person who emits an air contaminant in
22 violation of any provision of this part, or any order, rule,
23 regulation, or permit of the state board or of a district pertaining
24 to emission regulations or limitations, and who knew of the
25 emission and failed to take corrective action within a reasonable
26 period of time under the circumstances, is guilty of a
27 misdemeanor and is punishable by a fine of not more than forty
28 thousand dollars (\$40,000), or imprisonment in a county jail for
29 not more than one year, or both.

30 (b) For purposes of this section, “corrective action” means the
31 termination of the emission violation or the grant of a variance
32 from the applicable order, rule, regulation, or permit pursuant to
33 Article 2 (commencing with Section 42350). If a district
34 regulation regarding process upsets or equipment breakdowns
35 would allow continued operation of equipment which is emitting
36 air contaminants in excess of allowable limits, compliance with
37 that regulation is deemed to be corrective action.

38 (c) Any person who owns or operates any source of air
39 contaminants in violation of Section 41700 that causes a
40 substantial risk of actual injury, as defined in subdivision (e) of

1 Section 42400, to another person, whether the risk of injury is
2 immediate or in the future, and who knew of the discharge and
3 failed to take corrective action within a reasonable period of time
4 under the circumstances, is guilty of a misdemeanor and is
5 subject to a fine of not more than seventy-five thousand dollars
6 (\$75,000), or imprisonment in the county jail for not more than
7 nine months, or both.

8 (d) Any person who owns or operates any source of air
9 contaminants in violation of Section 41700 that causes actual
10 injury, as defined in subdivision (e) of Section 42400, to another
11 person, and who knew of the discharge and failed to take
12 corrective action within a reasonable period of time under the
13 circumstances, is guilty of a misdemeanor and is subject to a fine
14 of not more than one hundred thousand dollars (\$100,000), or
15 imprisonment in the county jail for not more than nine months, or
16 both.

17 (e) Any person who owns or operates any source of air
18 contaminants in violation of Section 41700 that causes great
19 bodily injury, as defined by Section 12022.7 of the Penal Code,
20 to, or death of, any person, and who knew of the emission and
21 failed to take corrective action within a reasonable period of time
22 under the circumstances, is guilty of a misdemeanor and is
23 punishable by a fine of not more than two hundred fifty thousand
24 dollars (\$250,000), or imprisonment in a county jail for not more
25 than one year, or both.

26 (f) Each day during any portion of which a violation occurs
27 constitutes a separate offense.

28 SEC. 8. Section 42400.3 of the Health and Safety Code is
29 amended to read:

30 42400.3. (a) Any person who willfully and intentionally
31 emits an air contaminant in violation of any provision of this part
32 or any rule, regulation, permit, or order of the state board or of a
33 district, pertaining to emission regulations or limitations, is guilty
34 of a misdemeanor and is punishable by a fine of not more than
35 seventy-five thousand dollars (\$75,000), or imprisonment in a
36 county jail for not more than one year, or both.

37 (b) Any person who willfully and intentionally, or with
38 reckless disregard for the risk of causing actual injury, as defined
39 in subdivision (e) of Section 42400, emits an air contaminant in
40 violation of Section 41700 that causes a substantial risk of actual

1 injury to another person, whether the risk of injury is immediate
2 or in the future, is guilty of a misdemeanor and is punishable by
3 a fine of not more than one hundred thousand dollars (\$100,000),
4 or imprisonment in a county jail for not more than one year, or
5 both.

6 (c) Any person who willfully and intentionally, or with
7 reckless disregard for the risk of causing actual injury, as defined
8 in subdivision (e) of Section 42400, emits an air contaminant in
9 violation of Section 41700 that causes actual injury to another
10 person, is guilty of a misdemeanor and is punishable by a fine of
11 not more than one hundred twenty-five thousand dollars
12 (\$125,000), or imprisonment in a county jail for not more than
13 one year, or both. However, if the defendant is a corporation, the
14 maximum fine is two hundred fifty thousand dollars (\$250,000).

15 (d) Any person who willfully and intentionally, or with
16 reckless disregard for the risk of great bodily injury, as defined
17 by Section 12022.7 of the Penal Code, to, or death of, any
18 person, emits an air contaminant in violation of Section 41700
19 that results in any unreasonable risk of great bodily injury to, or
20 death of, any person, is guilty of a public offense and is
21 punishable by a fine of not more than one hundred fifty thousand
22 dollars (\$150,000), or imprisonment in a county jail for not more
23 than one year, or both. However, if the defendant is a
24 corporation, the maximum fine is five hundred thousand dollars
25 (\$500,000).

26 (e) Any person who willfully and intentionally, or with
27 reckless disregard for the risk of great bodily injury, as defined
28 by Section 12022.7 of the Penal Code, to, or death of, any person
29 emits an air contaminant in violation of Section 41700 that
30 causes great bodily injury to, or death of, any person is guilty of
31 a public offense, and is punishable by a fine of not more than five
32 hundred thousand dollars (\$500,000), or imprisonment in a
33 county jail for not more than one year, or both that fine and
34 imprisonment, or is punishable by a fine of not more than five
35 hundred thousand dollars (\$500,000), or imprisonment in the
36 state prison, or by both that fine and imprisonment. If the
37 defendant is a corporation, the maximum fine is one million
38 dollars (\$1,000,000).

39 (f) Each day during any portion of which a violation occurs
40 constitutes a separate offense.

1 (g) This section does not preclude punishment under Section
2 189 or 192 of the Penal Code or any other provision of law that
3 provides a more severe punishment.

4 (h) For the purposes of this section:

5 (1) “Great bodily injury” means great bodily injury as defined
6 by Section 12022.7 of the Penal Code.

7 (2) “Imprisonment in state prison” means imprisonment in the
8 state prison for 16 months, or two or three years.

9 (3) “Unreasonable risk of great bodily injury or death” means
10 substantial probability of great bodily injury or death.

11 SEC. 9. Section 42400.3.5 of the Health and Safety Code is
12 amended to read:

13 42400.3.5. ~~(a)~~—Any person who knowingly violates any rule,
14 regulation, permit, order, fee requirement, or filing requirement
15 of the state board or of a district, including a district hearing
16 board, that is adopted for the control of toxic air contaminants
17 pursuant to Part 1 (commencing with Section 39000) to Part 4
18 (commencing with Section 41500), inclusive, and for which
19 delegation or approval of implementation and enforcement
20 authority has been obtained pursuant to subdivision (l) of Section
21 112 of the Clean Air Act (42 U.S.C. Sec. 7412(l)), or the
22 regulations adopted pursuant thereto, is guilty of a misdemeanor
23 and is subject to a fine of not more than ten thousand dollars
24 (\$10,000) or imprisonment in the county jail for not more than
25 six months, or both.

26 ~~(b) (1) Any person who knowingly makes any false material~~
27 ~~statement, representation, or certification in any form or in any~~
28 ~~notice or report required by a rule or regulation adopted or permit~~
29 ~~issued for the control of toxic air contaminants pursuant to Part 1~~
30 ~~(commencing with Section 39000) to Part 4 (commencing with~~
31 ~~Section 41500), inclusive, and for which delegation or approval~~
32 ~~of implementation and enforcement authority has been obtained~~
33 ~~pursuant to subdivision (l) of Section 112 of the Clean Air Act~~
34 ~~(42 U.S.C. Sec. 7412(l)), or the regulations adopted pursuant~~
35 ~~thereto, or who knowingly renders inaccurate any monitoring~~
36 ~~device required by that toxic air contaminant rule, regulation, or~~
37 ~~permit is subject to a fine of not more than fifty thousand dollars~~
38 ~~(\$50,000) or imprisonment in the county jail for not more than~~
39 ~~nine months, or both.~~

~~(2) Any person who with the intent to deceive makes any false material statement, representation, or certification in any form or in any notice or report required by a rule or regulation adopted or permit issued for the control of toxic air contaminants pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, and for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subdivision (l) of Section 112 of the federal Clean Air Act or the regulations adopted pursuant thereto, or who with an intent to deceive renders inaccurate any monitoring device required by that toxic air contaminant rule, regulation, or permit, is subject to a fine of not more than one hundred thousand dollars (\$100,000) or imprisonment in the county jail for not more than one year, or both.~~

~~(e) Any person who, knowingly and with intent to deceive, falsifies any document required to be kept pursuant to any provision of this part, or any rule, regulation, permit, notice to comply, or order of the state board or of a district, is punishable as provided in paragraph (2) of subdivision (b).~~

~~(d) Nothing in this section shall preclude prosecution under any other law.~~

SEC. 10. Section 42400.3.7 is added to the Health and Safety Code, to read:

42400.3.7. (a) Any person who knowingly makes any false material statement, representation, or certification in any form or in any notice or report required to be kept pursuant to any provision of this part, or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, or who knowingly renders inaccurate any monitoring device required by such rule, regulation, permit, or order, is subject to a fine of not more than fifty thousand dollars (\$50,000) or imprisonment in the county jail for not more than nine months, or both.

(b) Any person who knowingly and with intent to deceive makes any false material statement, representation, or certification in any form or in any notice or report required to be kept pursuant to any provision of this part, or any rule, regulation, permit, or order of the state board or of a district, including a district hearing board, or who knowingly and with intent to deceive renders inaccurate any monitoring device

1 *required by such rule, regulation, permit, or order, is subject to a*
2 *fine of not more than one hundred thousand dollars (\$100,000)*
3 *or imprisonment in the county jail for not more than one year, or*
4 *both.*

5 *(c) Nothing in this section shall preclude prosecution under*
6 *any other law.*

7 ~~SEC. 10.~~

8 *SEC. 11.* Section 42400.6 of the Health and Safety Code is
9 amended to read:

10 42400.6. A fine or monetary penalty specified in Section
11 39674, subdivisions (a) and (b) of Section 42400, Section 42402,
12 or subdivision (a) of Section 44381 of this code, that may be
13 imposed as the result of conduct that is also subject to Chapter 5
14 (commencing with Section 17200) of Part 2 of Division 7 of the
15 Business and Professions Code, may be collected either under
16 those provisions of this code, or under that chapter of the
17 Business and Professions Code, but not under both.

18 ~~SEC. 11.~~

19 *SEC. 12.* Section 42400.9 is added to the Health and Safety
20 Code, to read:

21 42400.9. An act or omission that is criminally punishable in
22 different ways by different provisions of this article shall be
23 punished under the provision that provides for the highest
24 maximum penalty, but in no case shall the act or omission be
25 punished under more than one provision.

26 ~~SEC. 12.~~

27 *SEC. 13.* Section 42401 of the Health and Safety Code is
28 amended to read:

29 42401. Except as otherwise provided in subdivision (b) of
30 Section 42402, any person who intentionally or negligently
31 violates any order of abatement issued by a district pursuant to
32 Section 42450, by a hearing board pursuant to Section 42451, or
33 by the state board pursuant to Section 41505 is liable for a civil
34 penalty of not more than twenty-five thousand dollars (\$25,000)
35 for each day in which the violation occurs.

36 ~~SEC. 13.~~

37 *SEC. 14.* Section 42402 of the Health and Safety Code is
38 amended to read:

39 42402. (a) Except as provided in Sections 42402.1, 42402.2,
40 42402.3, and 42402.4, any person who violates this part, any

1 order issued pursuant to Section 42316, or any rule, regulation,
2 permit, or order of a district, including a district hearing board, or
3 of the state board issued pursuant to Part 1 (commencing with
4 Section 39000) to Part 4 (commencing with Section 41500),
5 inclusive, is strictly liable for a civil penalty of not more than ten
6 thousand dollars (\$10,000).

7 (b) (1) Any person who violates any provision of this part,
8 any order issued pursuant to Section 42316, or any rule,
9 regulation, permit or order of a district, including a district
10 hearing board, or of the state board issued pursuant to Part 1
11 (commencing with Section 39000) to Part 4 (commencing with
12 Section 41500), inclusive, is strictly liable for a civil penalty of
13 not more than fifty thousand dollars (\$50,000).

14 (2) (A) If a civil penalty in excess of five thousand dollars
15 (\$5,000) for each day in which a violation occurs is sought, there
16 is no liability under subdivision (a) or paragraph (1) for an
17 amount above five thousand dollars (\$5,000) for each day during
18 any portion of which a violation occurs, if the person accused of
19 the violation alleges by affirmative defense and establishes that
20 the violation was caused by an act that was not the result of
21 intentional nor negligent conduct.

22 (B) Subparagraph (A) shall not apply to a violation of
23 federally enforceable requirements that occur at a Title V source
24 in a district in which a Title V permit program has been fully
25 approved.

26 (C) Subparagraph (A) does not apply to a person who is
27 determined to have violated an annual facility emissions cap
28 established pursuant to a market based incentive program
29 adopted by a district pursuant to subdivision (b) of Section
30 39616.

31 (c) Any person who owns or operates any source of air
32 contaminants in violation of Section 41700 that causes a
33 substantial risk of actual injury, as defined in subdivision (e) of
34 Section 42400, to another person, whether the risk of injury is
35 immediate or in the future, is liable for a civil penalty of not
36 more than twenty-five thousand dollars (\$25,000).

37 (d) Any person who owns or operates any source of air
38 contaminants in violation of Section 41700 that causes actual
39 injury, as defined in subdivision (e) of Section 42400, to another

1 person, is liable for a civil penalty of not more than fifty
2 thousand dollars (\$50,000).

3 (e) Each day during any portion of which a violation occurs is
4 a separate offense.

5 ~~SEC. 14.~~

6 *SEC. 15.* Section 42402.1 of the Health and Safety Code is
7 amended to read:

8 42402.1. (a) Any person who negligently emits an air
9 contaminant in violation of this part or any rule, regulation,
10 permit, or order of the state board or of a district, including a
11 district hearing board, pertaining to emission regulations or
12 limitations is liable for a civil penalty of not more than
13 twenty-five thousand dollars (\$25,000).

14 (b) Any person who negligently emits an air contaminant in
15 violation of Section 41700 that causes a substantial risk of actual
16 injury, as defined in subdivision (e) of Section 42400, to another
17 person, whether the risk of injury is immediate or in the future, is
18 liable for a civil penalty of not more than fifty thousand dollars
19 (\$50,000).

20 (c) Any person who negligently emits an air contaminant in
21 violation of Section 41700 that causes actual injury, as defined in
22 subdivision (e) of Section 42400, to another person is liable for a
23 civil penalty of not more than seventy-five thousand dollars
24 (\$75,000).

25 (d) Any person who negligently emits an air contaminant in
26 violation of Section 41700 that causes great bodily injury, as
27 defined by Section 12022.7 of the Penal Code, to any person or
28 that causes the death of any person, is liable for a civil penalty of
29 not more than one hundred thousand dollars (\$100,000).

30 (e) Each day during any portion of which a violation occurs is
31 a separate offense.

32 ~~SEC. 15.~~

33 *SEC. 16.* Section 42402.2 of the Health and Safety Code is
34 amended to read:

35 42402.2. (a) Any person who emits an air contaminant in
36 violation of any provision of this part, or any order, rule,
37 regulation, or permit of the state board or of a district, including
38 a district hearing board, pertaining to emission regulations or
39 limitations, and who knew of the emission and failed to take
40 corrective action, as defined in subdivision (b) of Section

1 42400.2, within a reasonable period of time under the
2 circumstances, is liable for a civil penalty of not more than forty
3 thousand dollars (\$40,000).

4 (b) Any person who emits an air contaminant in violation of
5 Section 41700 that causes a substantial risk of actual injury, as
6 defined in subdivision (e) of Section 42400, to another person,
7 whether the risk of injury is immediate or in the future, and who
8 knew of the discharge and failed to take corrective action, as
9 defined in subdivision (b) of Section 42400.2, within a
10 reasonable period of time under the circumstances, is liable for a
11 civil penalty of not more than seventy-five thousand dollars
12 (\$75,000).

13 (c) Any person who emits an air contaminant in violation of
14 Section 41700 that causes actual injury, as defined in subdivision
15 (e) of Section 42400, to another person, and who knew of the
16 discharge and failed to take corrective action, as defined in
17 subdivision (b) of Section 42400.2, within a reasonable period of
18 time under the circumstances, is liable for a civil penalty of not
19 more than one hundred thousand dollars (\$100,000).

20 (d) Any person who owns or operates any source of air
21 contaminants in violation of Section 41700 that causes great
22 bodily injury, as defined by Section 12022.7 of the Penal Code,
23 to any person or that causes the death of any person, and who
24 knew of the emission and failed to take corrective action, as
25 defined in subdivision (b) of Section 42400.2, within a
26 reasonable period of time under the circumstances, is liable for a
27 civil penalty not to exceed two hundred fifty thousand dollars
28 (\$250,000).

29 (e) Each day during any portion of which a violation occurs is
30 a separate offense.

31 ~~SEC. 16.~~

32 *SEC. 17.* Section 42402.3 of the Health and Safety Code is
33 amended to read:

34 42402.3. (a) Any person who willfully and intentionally
35 emits an air contaminant in violation of this part or any rule,
36 regulation, permit, or order of the state board, or of a district,
37 including a district hearing board, pertaining to emission
38 regulations or limitations, is liable for a civil penalty of not more
39 than seventy-five thousand dollars (\$75,000).

(b) Any person who willfully and intentionally, or with reckless disregard for the risk of causing actual injury, as defined in subdivision (e) of Section 42400, emits an air contaminant in violation of Section 41700 that result in a substantial risk of actual injury to another person, whether the risk of injury is immediate or in the future, is liable for a civil penalty of not more than one hundred thousand dollars (\$100,000).

(c) Any person who willfully and intentionally, or with reckless disregard for the risk of causing actual injury, as defined in subdivision (e) of Section 42400, emits an air contaminant in violation of Section 41700 that results in actual injury to another person, is liable for a civil penalty of not more than one hundred twenty-five thousand dollars (\$125,000). If the defendant is a corporation, the maximum fine shall be two hundred fifty thousand dollars (\$250,000).

(d) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, emits an air contaminant in violation of Section 41700 that results in an unreasonable risk of great bodily injury to, or death of, any person, is liable for a civil penalty of not more than one hundred one hundred fifty thousand dollars (\$150,000). If the violator is a corporation, the maximum penalty is five hundred thousand dollars (\$500,000).

(e) Any person who willfully and intentionally, or with reckless disregard for the risk of great bodily injury, as defined by Section 12022.7 of the Penal Code, to, or death of, any person, emits an air contaminant in violation of Section 41700 that causes great bodily injury, as defined by Section 12022.7 of the Penal Code, to any person or that causes the death of any person, is liable for a civil penalty of not more than ~~two hundred fifty thousand dollars (\$250,000)~~ *five hundred thousand dollars (\$500,000)*. If the violator is a corporation, the maximum penalty may be up to one million dollars (\$1,000,000).

(f) Each day during any portion of which a violation occurs is a separate offense.

~~SEC. 17. Section 42402.4 of the Health and Safety Code is amended to read:~~

~~42402.4. Any person who knowingly and with intent to deceive, falsifies any document required to be kept pursuant to~~

1 any provision of this part, or any rule, regulation, permit, or order
2 of the state board or of a district, including a district hearing
3 board, is liable for a civil penalty of not more than one hundred
4 thousand dollars (\$100,000).

5 *SEC. 18. Section 42402.4 of the Health and Safety Code is*
6 *amended to read:*

7 42402.4. (a) Any person who knowingly makes any false
8 material statement, representation, or certification in any form
9 or in any notice or report required to be kept pursuant to any
10 provision of this part, or any rule, regulation, permit, or order of
11 the state board or of a district, including a district hearing
12 board, or who knowingly renders inaccurate any monitoring
13 device required by any such rule, regulation, permit, or order, is
14 liable for a civil penalty of not more than fifty thousand dollars
15 (\$50,000).

16 (b) Any person who knowingly and with intent to deceive,
17 ~~falsifies any document~~ makes any false material statement,
18 representation, or certification in any form or in any notice or
19 report required to be kept pursuant to any provision of this part,
20 or any rule, regulation, permit, or order of the state board or of a
21 district, including a district hearing board, or who knowingly and
22 with intent to deceive renders inaccurate any monitoring device
23 required by any such rule, regulation, permit, or order, is liable
24 for a civil penalty of not more than ~~thirty-five thousand dollars~~
25 ~~(\$35,000)~~ one hundred thousand dollars (\$100,000).

26 ~~SEC. 18:~~

27 *SEC. 19. Section 42402.4.5 is added to the Health and Safety*
28 *Code, to read:*

29 42402.4.5. (a) ~~Any~~ Any person who knowingly violates any rule,
30 regulation, permit, order, fee requirement, or filing requirement
31 of the state board or of a district, including a district hearing
32 board, that is adopted for the control of toxic air contaminants
33 pursuant to Part 1 (commencing with Section 39000) to Part 4
34 (commencing with Section 41500), inclusive, and for which
35 delegation or approval of implementation and enforcement
36 authority has been obtained pursuant to subdivision (l) of Section
37 112 of the Clean Air Act (42 U.S.C. Sec. 7412(l)), or the
38 regulations adopted pursuant thereto, is liable for a civil penalty
39 of not more than ten thousand dollars (\$10,000).

~~(b) (1) Any person who knowingly makes any false material statement, representation, or certification in any form or in any notice or report required by a rule or regulation adopted or permit issued for the control of toxic air contaminants pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, and for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subdivision (l) of Section 112 of the Clean Air Act (42 U.S.C. Sec. 7412(l)), or the regulations adopted pursuant thereto, or who knowingly renders inaccurate any monitoring device required by that toxic air contaminant rule, regulation, or permit is liable for a civil penalty of not more than fifty thousand dollars (\$50,000).~~

~~(2) Any person who, with the intent to deceive, makes any false material statement, representation, or certification in any form or in any notice or report required by a rule or regulation adopted or permit issued for the control of toxic air contaminants pursuant to Part 1 (commencing with Section 39000) to Part 4 (commencing with Section 41500), inclusive, and for which delegation or approval of implementation and enforcement authority has been obtained pursuant to subdivision (l) of Section 112 of the federal Clean Air Act or the regulations adopted pursuant thereto, or who with an intent to deceive renders inaccurate any monitoring device required by that toxic air contaminant rule, regulation, or permit, is liable for a civil penalty of not more than one hundred thousand dollars (\$100,000).~~

~~(c) Any person who, knowingly and with the intent to deceive, falsifies any document required to be kept pursuant to any provision of this part, or any rule, regulation, permit, notice to comply, or order of the state board or of a district, is punishable as provided in paragraph (2) of subdivision (b).~~

~~SEC. 19.~~

SEC. 20. Section 42402.6 is added to the Health and Safety Code, to read:

42402.6. An act or omission that is punishable by different civil penalties pursuant to different provisions of this article shall be punished under the provision that provides for the highest maximum civil penalty.

1 ~~SEC. 20.~~

2 *SEC. 21.* If the Commission on State Mandates determines
3 that this act contains costs mandated by the state, reimbursement
4 to local agencies and school districts for those costs shall be
5 made pursuant to Part 7 (commencing with Section 17500) of
6 Division 4 of Title 2 of the Government Code.

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